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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Cellular Service and Other Commercial
Mobile Radio Services in the Gulf of
Mexico

Amendment of Part 22 of the Commission's
Rules to Provide for Filing and Processing
of Applications for Unserved Areas in the
Cellular Service and to Modify Other
Cellular Rules

WT Docket No. 97-112

CC Docket No. 90-6

REPLY COMMENTS OF CENTENNIAL CELLULAR CORPORATION

Centennial Cellular Corp. ("Centennial"),¹ through counsel, hereby submits these Reply Comments pursuant to the Commission's *Second Further Notice of Proposed Rulemaking* ("*Second Notice*") adopted in the above-captioned proceeding.² As explained below, Centennial supports 1) the incorporation of the "Coastal Zone" into the MSA/RSA boundaries of the land-based carriers; 2) the prohibition of land transmitter sites for water-

¹Centennial, through wholly-owned subsidiaries, is the A Block cellular carrier serving the Beauregard, Louisiana 5 RSA, Market 458 (KNKQ374), the Beaumont-Port Arthur, Texas MSA, Market 101 (KNKA454) and the Iberville, Louisiana 6 RSA, Market 459 (KNKQ339), each of which border on the Gulf of Mexico.

²FCC 97-110, CC Docket No. 90-6 (released April 16, 1997).

based licensees without the consent of the affected land-based carrier; and 3) the processing of pending applications of existing land-based cellular licensees.

I. THE COASTAL ZONE SHOULD BE INCORPORATED INTO EXISTING LAND-BASED MARKETS.

Like many of the comments submitted in this proceeding, Centennial supports the Commission's conclusion to allow all existing authorized land-based service area contours that extend into the proposed "Coastal Zone" to remain undisturbed.³ Centennial reiterates its firm belief that any required "pull back" of authorized extensions would constitute impermissible retroactive rulemaking.⁴

As explained in detail below, Centennial agrees with numerous other commenters that the MSA/RSA boundaries of land-based cellular carriers should be redrawn to extend at least 12 nautical miles from the shoreline into the Gulf; therefore, eliminating the need for a separately licensed coastal region.⁵ Incorporating the "Coastal Zone" into the market boundaries of existing land-based licensees would allow the Commission to attain its

³See Comments of AT&T Wireless Services, Inc. ("AT&T") at 10-11, Texas RSA 20B2 Limited Partnership ("Texas Ltd.") at 7-8, Southwestern Bell Mobile Systems, Inc. ("SWB Mobile") at 4-5, Vanguard Cellular Systems, Inc. ("Vanguard") at 3-4, Wireless One Holding Company, L.P. ("Wireless One") at 2, 360 Communications Co. ("360 Comm.") at 7 and Palmer Wireless, Inc. ("Palmer") at 10-11. Centennial notes that authorized extensions would include granted applications as well as extensions permitted by FCC Form 489, pursuant to § 22.163(e) of the Commission's rules.

⁴See *Georgetown Univ. Hospital v. Bowen*, 821 F.2d 750 (D.C. Cir. 1987), *aff'd*, 488 U.S. 204 (1988). As noted in Centennial's original comments, the Commission's proposed rules must accommodate Centennial's full five year buildout period of its station KNKQ374 serving Market 458, which expires on January 8, 1998.

⁵See Comments of BellSouth Corp. ("BellSouth") at 4-11, MobileTel, Inc. ("MobileTel") at 2-4, AT&T at 4-6 and GTE Service Corp. ("GTE") at 2-8.

goals of achieving regulatory parity, ensuring seamless cellular service and serving the public interest.⁶

A. Regulatory Parity Requires The Incorporation of the "Coastal Zone" Into The Market Boundaries Of Incumbent Land-Based Licensees.

Centennial echoes several commenters' concerns that the ability of land-based cellular carriers to effectively compete with other CMRS carriers will be undermined if land-based cellular licensees are not permitted to fully serve the Gulf coastal region.⁷ Most significantly, PCS providers adjacent to the Gulf have planned and deployed networks with the full intention and capability of serving the coastal region in direct competition with incumbent land-based cellular carriers.⁸ Regulatory parity requires that similarly situated cellular licensees be afforded the same opportunity as PCS licensees to serve the Gulf coastal region.⁹ If the Commission does not recognize this competitive marketplace in the enactment

⁶Centennial also rejects any kind of "hybrid" propagation formula for determining coverage of signals that extend partially over land and partially over water. Contrary to the assertions of the existing Gulf licensees, requiring carriers to use different propagation formulas depending on whether or not their signals extend partially over the Gulf is impractical, administratively burdensome and entirely unnecessary. *See* Comments of AT&T at 10, 360 Comm. at 7-8, SWB Mobile at 5, Vanguard at 5 and Palmer at 11-12.

⁷*See* Comments of GTE at 7-8, BellSouth at 4-7 and Palmer at 16.

⁸The Wireless Telecommunications Bureau has stated that "[u]nlike cellular mobile service, there is no [separate] PCS license for the water areas of the Gulf of Mexico. Entities eligible to serve the Gulf of Mexico are the licensees of BTAs bordering the Gulf." *Mobil Oil Telcom, Ltd.*, 11 F.C.C. Rcd. 4115, 4116 n. 10 (WTB 1996). *See also* Comments of Sprint Spectrum L.P., PrimeCo Personal Communications, L.P., Benbow PCS Ventures, Inc., Aerial Communications, Inc. and Western PCS BTA I Corp. As noted by GTE, "PCS provider networks already extend into the Gulf." Comments of GTE at 7.

⁹The Commission has held that equalizing the regulatory requirements applicable to all mobile service providers by allowing competing operators to offer the same portfolio of service options and packages is required by Congress' mandate that comparable mobile services receive similar regulatory treatment. *See Eligibility for the Specialized Mobile Radio Svcs.*, 10 F.C.C.

of its rules, PCS (and other CMRS) providers will have a distinct advantage over Gulf carriers with respect to their ability to serve consumers in the Gulf coastal region.¹⁰

Accordingly, any rules adopted by the Commission must be based upon the principle of regulatory parity.

In addition, Centennial agrees that reliance on land-based carriers for the provision of cellular service in the Gulf coastal region is consistent with the Commission's treatment of other water areas, in which cellular service over adjacent bodies of water is only allowed through the expansion of land-based systems.¹¹ In fact, many land-based carriers now have facilities in place that could easily and efficiently provide coverage of the "Coastal Zone," but have been prevented from providing such coverage by nonconsenting Gulf carriers. If this impediment was removed, the engineering configuration of these existing land-based facilities could be modified to provide this expanded coverage virtually overnight. Therefore, the Commission should acknowledge both the substantial existing coverage of the Gulf coastal region by land-based licensees and that land-based licensees are the most natural and

Rcd. 6280 (1995).

¹⁰See *Mobil Oil Telcom, Ltd.*, 11 F.C.C. Rcd. 4115 (WTB 1996).

¹¹See Comments of AT&T at 5, n. 10 and MobileTel at 3, n. 4. Most recently, the Commission adopted rules for the provision of wireless communications services ("WCS") utilizing the same approach advocated herein. *In the Matter of Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service*, FCC 97-50, GN Docket No. 96-228, ¶ 59 (released Feb. 19, 1997)("We determine that land-based license regions abutting the Gulf of Mexico will extend to the limit of the territorial waters of the U.S. in the Gulf, which . . . extends approximately twelve nautical miles from the U.S. baseline.").

efficient service providers in that area, and incorporate the "Coastal Zone" into the markets of existing land-based carriers.¹²

B. Incorporating the "Coastal Zone" Into The Market Boundaries Of Incumbent Land-Based Carriers Will Serve The Public Interest By Ensuring Efficient And Contiguous Cellular Service.

It appears clear that if water-based licensees retain the right to serve the Gulf coastal region, the existing patchwork of service coverage will continue and, over time, will be exacerbated due to the constant movement of the oil rigs upon which water-based licensees maintain their transmitters. Centennial agrees with the number of commenters which argue that consumers will best be served and the most efficient coverage provided if land-based licensees are permitted to serve the Commission's proposed "Coastal Zone."¹³

First, many commenters recognize that cellular service would be less expensive to the public if provided by incumbent land-based carriers as the majority of traffic in the "Coastal Zone" is local marine traffic,¹⁴ consisting of fishing and pleasure craft traveling to and from their home ports. It would contravene the public interest to require these customers to pay exorbitant roamer charges or to maintain an additional subscription to a water-based

¹²Centennial agrees with MobileTel's proposal for ensuring that this approach adequately provides for cellular service to these remaining unserved areas. MobileTel suggests a short filing window during which coastal land-based licensees could apply for appropriate authority to extend their SABs to the 12-mile limit. If a land-based carrier declines to apply for such authorization, any unserved area could then be licensed according to the Commission's regular unserved area licensing process. *See* Comments of MobileTel at 3. In markets where the five year buildout period had not expired, such as Centennial's Market 458 (KNKQ374), the licensee should have the ability to extend service on a permissive basis (Form 489) through the end of the buildout term.

¹³*See* Comments of BellSouth at 7-8, GTE at 3-7, MobileTel at 4, Vanguard at 4, Palmer at 9 and SWB Mobile at 7.

¹⁴Typically, such customers subscribe to a land-based cellular carrier.

carrier. Customers consistently express frustration over inflated roamer charges and the Commission has already received numerous informal complaints from customers who do not understand why they are being charged any additional amount for roaming services.¹⁵ Land-based carriers could easily and efficiently remedy this by extending their service coverage to the Gulf coastal region, as they are already providing coverage to harbors and inland waterways,¹⁶ and provide consumers with a reliable service at reasonable rates.¹⁷ Clearly, the public interest would be served by allowing land-based licensees to provide such offerings.

Second, Centennial is also concerned that the Commission's proposed rules threaten the ability of consumers on and around the Gulf beaches to make and receive cellular calls.¹⁸ As noted by another commenter, it does not appear technically feasible for the Commission to structure its proposed cellular rules so that one carrier will not encroach on another carrier's market area.¹⁹ Accordingly, it is not in the public interest to carve out a sliver of the Gulf coastal region as customers will have little ability to predict the reliability and cost of their cellular calls, which in turn will certainly discourage cellular use altogether.

¹⁵See Comments of BellSouth at 8-9, SWB Mobile at 8, GTE at 4, Vanguard at 4 and Palmer at 9.

¹⁶This is the way service is provided with respect to comparable water areas adjacent to land such as the Great Lakes.

¹⁷Bachow candidly admits that its "fees are typically higher than fees charged by land-based carriers" Comments of Bachow at 37.

¹⁸See Comments of GTE at 3-5.

¹⁹*Id.*

II. WATER-BASED LICENSEES SHOULD NOT BE ALLOWED TO PLACE THEIR TRANSMITTERS ON LAND WITHOUT THE CONSENT OF THE AFFECTED LAND-BASED CARRIER.

Centennial agrees with the vast majority of cellular commenters that there are no circumstances under which a water-based licensee should be permitted to place its transmitter on land without the consent of the land-based carrier.²⁰ Such an allowance is both "technically infeasible," due to the substantial interference problems that would occur, and "legally indefensible," as such a policy directly contradicts well-established Commission rules and regulations.²¹

The Commission has already determined that "land transmitters could not be 'reengineered' in the Gulf area to avoid significant incursions over land;" thus, water-based licensees should not be permitted to place facilities on land without the consent of the affected land-based carrier.²² Centennial agrees with the Commission's finding that significant interference problems clearly warrant the prohibition of GMSA facilities in neighboring CGSAs. Furthermore, although the Commission has permitted cellular carriers to extend their SABs into the territory of adjacent providers, it has never authorized carriers to place facilities in neighboring CGSAs without the consent of the licensee. Since there has been no contrary evidence submitted in the record to refute this policy since its inception, the

²⁰See Comments of MobileTel at 4-7, AT&T at 6-9, 360 Comm. at 8-10, Radiofone, Inc. ("Radiofone") at 7, SWB Mobile at 5-7, Vanguard at 6-7 and Palmer at 12.

²¹See Comments of AT&T at 3. In its comments, Bachow does not address the substantial legal and technical problems surrounding the placement of transmitters on land by Gulf licensees. Even Petroleum Communications, Inc. ("PetroCom"), the other Gulf licensee, recognizes the "unique engineering challenges involved." Comments of PetroCom at 12.

²²Second Notice at ¶ 27 (citing *In re Applications of Petroleum Communications, Inc.*, 2 F.C.C. Red. 3695, ¶ 13 (1986)).

Commission should not reverse itself now. Accordingly, water-based licensees should not be permitted to locate their transmitters on land without the consent of the affected land-based carrier, otherwise the "conflict" between water-based and land-based carriers would only be exacerbated.

III. THE COMMISSION SHOULD GRANT ALL PENDING APPLICATIONS OF EXISTING LAND-BASED CELLULAR LICENSEES.

The commenters almost without exception disagree with the Commission's proposal to dismiss all pending de minimis extension applications by land-based cellular carriers.²³ Contrary to the Commission's conclusion that the processing of such applications would be inequitable in light of the reconsideration proceeding, the real inequity is to deny existing carriers the right to rely upon existing FCC rules. Incumbent licensees who currently have applications pending before the Commission have devoted considerable resources to the filing and prosecution of these applications. It is prejudicial and wasteful to dismiss any pending applications by incumbent land-based cellular carriers, even in light of the adoption of new cellular service rules for the Gulf.²⁴

If the Commission is concerned with what effects, if any, the *new* rules enacted pursuant to this proceeding might have on the pending applications of existing land-based

²³See *Second Notice* at ¶¶ 55-56; see also comments of Texas Ltd. at 3-7, Radiofone at 8, Vanguard at 7-8 and Palmer at 13.

²⁴In this regard, the Commission should distinguish between the different categories of applications that are pending at this time. Applications of existing licensees should be processed in order to expedite badly needed service, while applicants for new authorizations should be dismissed. New applicants will not facilitate service to the public, and are inconsistent with the most expeditious resolution of coastal service issues, which is to extend land-based licensees' markets into the Gulf.

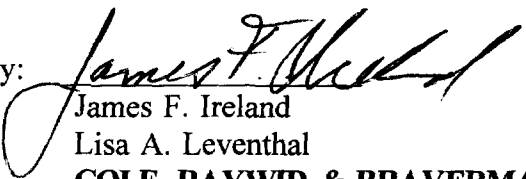
cellular licensees, Centennial urges the Commission to afford such applicants 60 days from the effective date of the revised rules to amend their applications if necessary to comply with the revised rules.²⁵ It would further delay service to the public and be a great waste of licensee and Commission resources to dismiss all pending applications of existing land-based cellular licensees and require such licensees to restart the application process.

CONCLUSION

Centennial urges the Commission to permit all existing land-based SAB extensions to remain intact and to incorporate the "Coastal Zone" into the MSA/RSA boundaries of the incumbent land-based carriers. In addition, the Commission should retain its long-standing prohibition of land transmitter sites for water-based licensees without the consent of the affected land-based carrier. Finally, the Commission should continue processing all pending applications of existing land-based cellular licensees. These steps would best insure the Commission's objective of "ensur[ing] wide-spread, reliable coverage along the shoreline."²⁶

Respectfully submitted,

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²⁵See Comments of Palmer at 13 and Radiofone at 8.

²⁶Second Notice at ¶ 27.